

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

MESA INDUSTRIES, INC.,	:	Case No. 1:22-cv-160
	:	
Plaintiff,	:	(Judge)
	:	
-v-	:	
	:	
CHARTER INDUSTRIAL	:	
SUPPLY, INC., et al.	:	
	:	
	:	
Defendants.	:	

PLAINTIFF’S MOTION FOR EXPEDITED DISCOVERY

Plaintiff Mesa Industries, Inc. (“Mesa”) through counsel, hereby moves, pursuant to Rule 26(d)(1) of the Federal Rules of Civil Procedure for leave permitting the parties to immediately undertake discovery before the Rule 26(f) conference and for an Order expediting discovery. Expedited discovery is needed by Plaintiff in order to properly prepare for a hearing on Plaintiff’s request for injunctive relief, including expedited responses to document requests and interrogatories directed to Defendants.

Plaintiff requests that this Court enter an Order granting leave for all parties to immediately conduct discovery pursuant to Rule 26(d) prior to the Rule 26(f) conference; further ordering that the length of time for all parties to respond to interrogatories, requests for production of documents and/or requests for admissions to be shortened to twenty (20) days after receipt thereof; further ordering that depositions be permitted to be conducted on dates as mutually agreed upon by and between counsel for the parties thereafter in advance of the scheduling of any preliminary injunction hearing by this Court; and for such other and further relief as this Court deems just and proper in the circumstances.

The grounds in support of this Motion are set forth in the accompanying Memorandum in Support.

Respectfully submitted,

/s/ Mark J. Chumley

Mark J. Chumley (0067321)

Gregory J. Robinson (0091290)

KEATING MUETHING & KLEKAMP PLL

One East Fourth Street

Suite 1400

Cincinnati, Ohio 45202

Tel. (513) 579-6400

Fax: (513) 579-6457

Attorneys for Plaintiff, Mesa Industries, Inc.

MEMORANDUM IN SUPPORT

I. STANDARD FOR GRANTING EXPEDITED DISCOVERY

“Federal Rule of Civil Procedure 26(d) governs the timing and sequence of discovery, and vests the district court with the discretion to order expedited discovery.” *Tri County Wholesale Distributors, Inc. v. Labatt USA Operating Co., LLC*, No. 2:13-CV-317, 2013 WL 12180497, at *2 (S.D. Ohio April 22, 2013), *citing Russell v. Lumpkin*, No. 2:10-CV-00314, 2010 WL 1882139 at *1–*2 (S.D. Ohio 2010). As a general matter, discovery commences in a federal case after the parties have held a Rule 26(f) conference. Fed. R. Civ. P. 26(d). “A party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), except ...when authorized by these rules, by stipulation, or by court order.” Fed. R. Civ. P. 26(d). By court order, “[d]iscovery can begin earlier . . . [and] will be appropriate in some cases, such as those involving requests for a preliminary injunction” Fed. R. Civ. P. 26(d) (Comments to 1993 Amendments, Subdivision (d)).

“Courts considering motions to expedite typically apply a ‘good cause’ standard.” *Tri County Wholesale Distributors, Inc.*, 2013 WL 122180497 at * 2. “Good cause is often found when there is a request for a preliminary injunction.” *Id. See, e.g., Hydropartners, LLC v. Ecoenergy Energy Generation Ltd.*, No. 1:08-CV-819, 2008 WL 1775411, at *2 (N.D. Ohio April 16, 2008)) (“[S]uch limited discovery in advance of [a preliminary] injunction hearing is supported by applicable law”); *Hausser Taylor LLC v. RSM McGladrey, Inc.*, No. 1:07-CV-2832, 2007 WL 2778659, at *3 (N.D. Ohio Sept. 21, 2007) (permitting expedited discovery to “allow Plaintiff the opportunity to present evidence warranting a preliminary injunction”); and *El Pollo Loco, S.A. de C.V. v. El Pollo Loco, Inc.*, 344 F.Supp.2d 986, 991 (S.D. Tex. 2004) (“Expedited discovery would be appropriate in cases involving preliminary injunctions or challenges to personal jurisdiction).

See also Ellsworth Assocs., Inc. v. United States, 917 F. Supp. 841, 844 (D.D.C. 1996) (expedited Discovery is “particularly appropriate when a plaintiff seeks injunctive relief because of the expedited nature of injunctive proceedings”).

II. GOOD CAUSE EXISTS FOR EXPEDITED DISCOVERY

In the instant case, Plaintiff seeks preliminary and permanent injunctive relief in its Verified Complaint against Defendants herein, in addition to seeking a limited, immediate temporary restraining order. An urgent need for significant discovery in advance of a preliminary injunction hearing exists and expedited discovery is reasonable and warranted.

III. CONCLUSION

For the foregoing reasons together with the reasons set forth in Plaintiff’s Motion for Leave To Conduct Expedited Discovery, Plaintiff respectfully requests that the Court grant Plaintiff’s Motion for Leave to Conduct Expedited Discovery.

Respectfully submitted,

/s/ Mark J. Chumley
Mark J. Chumley (0067321)
Gregory J. Robinson (0091290)
KEATING MUETHING & KLEKAMP PLL
One East Fourth Street
Suite 1400
Cincinnati, Ohio 45202
Tel. (513) 579-6400
Fax: (513) 579-6457
Attorneys for Plaintiff,
Mesa Industries, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of March, 2022, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to counsel of record by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. A copy of this filing was also served, via certified mail and UPS overnight delivery, on the named Defendants as follows:

CHARTER INDUSTRIAL SUPPLY, INC.
7832 Ostrow St.
San Diego, CA 92111

and

ALEJANDRO ESPINOZA
845 N. 11th Avenue
Upland, California 91786-4009

and

KYLE KING
4311 W 71st Ct
Tulsa, OK 74132

/s/ Gregory J. Robinson
Gregory J. Robinson

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